

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

UNITED STATES OF AMERICA      )  
                                    )  
                                    )  
v.                                )  
                                    )  
WOLKER GEORGES,                )  
                                    )  
DEFENDANT/MOVANT              )

CRIMINAL No. 2:10-cr-108-DBH  
(CIVIL No. 2:12-cv-264-DBH)

**ORDER AFFIRMING RECOMMENDED DECISION  
OF THE MAGISTRATE JUDGE**

On June 11, 2013, the United States Magistrate Judge filed with the court, with copies to the parties, her Recommended Decision on 28 U.S.C. § 2255 Motion. On July 8, 2013, the movant filed a motion to amend his § 2255 motion that was denied by the Magistrate Judge on July 9, 2013. The movant filed his objection to the Recommended Decision on July 11, 2013. On July 18, 2013, he filed a motion for reconsideration of the denial of his motion to amend. I **DENY** the motion for reconsideration.

I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in the Recommended Decision, and determine that no further proceeding is necessary. The statutory mandatory minimum did not affect my sentence and, in any event, Alleyne v. United States, 133 S.Ct. 2151 (2013), has not

been held retroactive. In re Payne, No. 13-5103, 2013 WL 5200425 (10th Cir. Sept. 17, 2013); Simpson v. United States, 721 F.3d 875 (7th Cir. 2013). I do not consider new factual assertions that the movant makes in his objections to the Report and Recommendation. Bramson v. Winn, 136 Fed. Appx. 380 (1st Cir. 2005) (citing Maine Green Party v. Maine, Sec'y of State, 173 F.3d 1, 4 (1st Cir. 1999)).

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The movant's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside or Correct Sentence is **DENIED**.

Finally, I find that no certificate of appealability shall issue in the event the movant files a notice of appeal because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2).

**So ORDERED.**

**DATED THIS 15<sup>TH</sup> DAY OF OCTOBER, 2013**

/s/D. BROCK HORNBY

**D. BROCK HORNBY**

**UNITED STATES DISTRICT JUDGE**